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NEWSLETTER

Connecticut Bans Corporate Meetings about Politics

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Effective as of July 1, 2022, Connecticut law purports to grant an employee a statutory cause of action against his or her employer if the employer "subjects or threatens to subject any employee to discipline or discharge" because the employee refuses to "attend an employer sponsored meeting ... the primary purpose of which is to communicate the employer's opinion concerning religious or political matters" or refuses to "listen to speech or view communications, the primary purpose of which is to communicate the employer's opinion concerning religious or political matters." Conn. Gen. Stat. § 31-51q, as amended by S. B. 163 (2022). The new law, Senate Bill 163, defines both "political matters" and "[r]eligious matters" expansively, covering "all matters relating to elections for political office, political parties, legislation, regulation, and the decision to join or support any political party or political civic, community, fraternal or labor organization" and "matters relating to religious affiliation and practice and the decision to join or support any religious organization or association." *Id.* Senate Bill 163 expands an existing Connecticut law that gave an employee a statutory cause of action if they were disciplined or discharged because they exercised their rights to free speech or free exercise of religion under the First Amendment to the United State Constitution or its analogues in the Constitution of the State of Connecticut. *Id.*

Prior to Senate Bill 163's passage, similar bills targeting mandatory employer-sponsored meetings about union organizing had previously been considered by Connecticut's legislature in 2011 and 2018, but then-Attorney General George Jepsen advised the legislature on both occasions that state prohibitions against mandatory employer-sponsored meetings were preempted by the federal National Labor

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Practice Areas

Election Law & First Amendment Litigation
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Relations Act. Mark Pazniokas, *Prague: On advice from A.G., Senate gives up on 'captive audience' bill passed by House*, The Connecticut Mirror (May 27, 2011) (https://ctmirror.org/2011/05/27/prague-advice-ag-senate-gives-captive-audience-bill-passed-house/); State of Connecticut Attorney General, *2018-02 Formal Opinion* (Apr. 26, 2018) (https://portal.ct.gov/-/media/AG/Opinions/2018/2018-02_Captive_Audience.pdf). The path to Senate Bill 163's passage was cleared in 2019, when new Attorney General William Tong advised that laws might avoid federal preemption if they focused on the First Amendment rather than labor relations, and sought to protect employees' "right to freedom of speech, freedom of religion and freedom of association" including "the right not to be required to listen to speech" rather than expressly seeking to regulate or prohibit employers' speech. State of Connecticut Attorney General, *2019-03 Formal Opinion* (May 17, 2019) (https://portal.ct.gov/-/media/AG/Opinions/2019/2019-03_Sen_Fasano.pdf).

Attorney General Tong's formal opinion notwithstanding, there are several open questions surrounding the legality of Senate Bill 163. Courts may disagree with Attorney General Tong's narrower interpretation of the scope of the National Labor Relations Act's preemptive effect. Courts may also need to determine whether they agree with Attorney General Tong's strong conception of a negative First Amendment "right not to be required to listen to speech," or Senate Bill 163's prohibition against requiring employee attendance at any meeting with the "primary purpose" of communicating an employer's views on "religious or political matters" intrudes upon the First Amendment rights of employers. Until these questions are resolved, employers in Connecticut should be aware that they may be exposing themselves to liability if they discipline or threaten to discipline any employee for failure to attend a meeting, view material, or listen to material at which the employer discusses *any* political, civic, or religious issues at any meaningful length.